

Amendment to Title 08, Chapter 101,
Rules Governing the Manufacture and Sale
of Intoxicating Liquor of the County of Maui

1. Section 08-101-5, Rules Governing the Manufacture and Sale of Intoxicating Liquor of the County of Maui, is amended by amending the definition of "retail licensee" to read as follows:

"Retail licensee" means any licensee holding a class 2, ~~or~~ class 4 through 16, or class 18 license." [Eff 7/1/00; am and comp 7/15/02; am and comp 4/22/12; am and comp 6/18/15] (Auth: HRS §§ 91-2, 281-17) (Imp: HRS §281-17)

2. Section 08-101-22, Rules Governing the Manufacture and Sale of Intoxicating Liquor of the County of Maui, is amended by amending subsection (n) to read as follows:

"(n) Class 14. Brewpub license.

(1) A brewpub licensee:

[(A)] Shall manufacture not more than thirty thousand barrels of malt beverages on the licensee's premises during the license year;

[(B)] ~~(A)~~ May sell malt beverages manufactured on the licensee's premises for consumption on the premises;

[(C)] ~~(B)~~ May sell malt beverages manufactured by the licensee in brewery-sealed packages to class 3, wholesale dealer licensees pursuant to conditions imposed by the county by ordinance or rule;

[(D)] ~~(C)~~ May sell intoxicating liquor purchased from [class 1 manufacturer licensee or] a class 3 wholesale dealer licensee to consumers for consumption on the licensee's premises;

[(E)] ~~(D)~~ May, subject to federal labeling and bottling requirements, sell malt beverages manufactured on the licensee's premises to consumers in brewery-sealed kegs and growlers for off-premise

consumption; provided that for purposes of this paragraph, "growler" means a glass or metal container, not to exceed one half-gallon, which shall be securely sealed;

[(F)](E) May, subject to federal labeling and bottling requirements, sell malt beverages manufactured on the licensee's premises in recyclable containers provided by the licensee or by the consumer which do not exceed one gallon per container and are securely sealed on the licensee's premises to consumers for off-premises consumption;

[(G)](F) Shall comply with all regulations pertaining to class 4 retail dealer licensees when engaging in the retail sale of malt beverages;

[(H)](G) May, subject to federal labeling and bottling requirements, sell malt beverages manufactured on the licensee's premises in brewery-sealed containers directly to class 2 restaurant licensees, class 3 wholesale dealer licensees, class 4 retail dealer licensees, class 5 dispenser licensees, class 6 club licensees, class 8 transient vessel licensees, class 9 tour or cruise vessel licensees, class 10 special licensees, class 11 cabaret licensees, class 12 hotel licensees, class 13 caterer licensees, class 14 brewpub licensees, class 15 condominium hotel licensees, class 18 small craft producer pub licensees, and consumers pursuant to conditions imposed by the county departments of planning, public works, and environmental management and regulations governing class 1 manufacturer licensees and class 3 wholesale dealer licensees; and

[(I)](H) May conduct the activities under paragraphs (A) through [(H)](G) at one location other than the licensee's premises; provided that:

- (i) The manufacturing takes place in Hawaii; and
 - (ii) The other location is properly licensed under the same ownership.
- (2) The categories of establishments shall be as follows:
 - (A) A standard bar; or
 - (B) Premises in which live entertainment or recorded music is provided. Facilities for dancing by the patrons may be permitted as provided by the rules of the commission. The subcategories of this category shall be:
 - (i) Premises in which recorded music is provided; or
 - (ii) Premises in which live entertainment or recorded music is provided; provided that facilities for dancing by the patrons may be permitted as provided by the rules of the commission." [Eff 7/1/00; am and comp 7/15/02; am and comp 4/22/12; am and comp 6/18/15] (Auth: HRS §§91-2, 281-17) (Imp: HRS §281-17)

3. Section 08-101-22, Rules Governing the Manufacture and Sale of Intoxicating Liquor of the County of Maui, is amended by amending subsections (p), (q), (r), and (s) to read as follows:

- "(p) Class 16. Winery license.
A winery licensee:
 - (1) Shall manufacture not more than [ten] twenty thousand barrels of wine on the licensee's premises during the license year;
 - (2) May sell wine manufactured on the licensee's premises for consumption on the premises;
 - (3) May sell wine manufactured by the licensee in winery-sealed packages to class 3 wholesale dealer licensees pursuant to conditions imposed by the county by ordinance or rule;
 - (4) May, subject to federal labeling and bottling requirements, sell wine manufactured on the licensee's premises to consumers in winery-

- sealed kegs and magnums to consumers for off-premises consumption; provided that for purposes of this paragraph, "magnum" means a glass container not to exceed one half-gallon, which may be securely sealed;
- (5) May, subject to federal labeling and bottling requirements, sell wine manufactured on the licensee's premises in recyclable containers provided by the licensee or by the consumer which do not exceed one gallon per container and are securely sealed on the licensee's premises to consumers for off-premises consumption;
 - (6) Shall comply with all rules pertaining to class 4 retail dealer licensees when engaging in the retail sale of wine; and
 - (7) May sell wine manufactured on the licensee's premises in winery-sealed containers directly to class 2 restaurant licensees, class 3 wholesale dealer licensees, class 4 retail dealer licensees, class 5 dispenser licensees, class 6 club licensees, class 8 transient vessel licensees, class 9 tour or cruise vessel licensees, class 10 special licensees, class 11 cabaret licensees, class 12 hotel licensees, class 13 caterer licensees, class 14 brewpub licensees, [and] class 15 condominium hotel licensees, and class 18 small craft producer pub licensees, pursuant to conditions imposed by the county departments of planning, public works, and environmental management and rules governing class 3 wholesale dealer licensees.
- (q) Class 18. Small craft producer pub license.
A small craft producer pub licensee:
- (1) Shall manufacture not more than:
 - (A) Sixty thousand barrels of malt beverages;
 - (B) Twenty thousand barrels of wine; or
 - (C) Seven thousand five hundred barrels of alcohol on the licensee's premises during the license year; provided that for purposes of this paragraph, "barrel" means a container not exceeding thirty one gallons or wine gallons of liquor;

- (2) May sell malt beverages, wine, or alcohol manufactured on the licensee's premises for consumption on the premises;
- (3) May sell malt beverages, wine, or alcohol manufactured by the licensee in producer-sealed packages to class 3 wholesale dealer licensees pursuant to conditions imposed by the county by ordinance or rule;
- (4) May sell intoxicating liquor purchased from a class 3 wholesale dealer licensee to consumers for consumption on the licensee's premises. The categories of establishments shall be as follows:
 - (A) A standard bar; or
 - (B) Premises in which live entertainment or recorded music is provided. Facilities for dancing by the patrons may be permitted as provided by commission rules;
- (5) May, subject to federal labeling and bottling requirements, sell malt beverages manufactured on the licensee's premises to consumers in producer-sealed kegs and growlers for off-premises consumption; provided that for purposes of this paragraph, "growler" means a glass or metal container, not to exceed one half-gallon, which shall be securely sealed;
- (6) May, subject to federal labeling and bottling requirements, sell malt beverages, wine, or alcohol manufactured on the licensee's premises in recyclable containers provided by the licensee or by the consumer which do not exceed:
 - (A) One gallon per container for malt beverages and wine; and
 - (B) One liter for alcohol; and are securely sealed on the licensee's premises to consumers for off-premises consumption;
- (7) Shall comply with all regulations pertaining to class 4 retail dealer licensees when engaging in the retail sale of malt beverages, wine, and alcohol;
- (8) May, subject to federal labeling and bottling requirements, sell malt beverages, wine, and alcohol manufactured on the licensee's

premises in producer-sealed containers directly to class 2 restaurant licensees, class 3 wholesale dealer licensees, class 4 retail dealer licensees, class 5 dispenser licensees, class 6 club licensees, class 8 transient vessel licensees, class 9 tour or cruise vessel licensees, class 10 special licensees, class 11 cabaret licensees, class 12 hotel licensees, class 13 caterer licensees, class 14 brewpub licensees, class 15 condominium hotel licensees, class 18 small craft producer pub licensees, and consumers pursuant to conditions imposed by county regulations governing class 1 manufacturer licensees and class 3 wholesale dealer licensees; and

(9) May conduct the activities under paragraphs (1) through (8) at one location other than the licensee's premises; provided that:

(A) The manufacturing takes place in Hawaii; and

(B) The other location is properly licensed under the same ownership.

[(q)](r) Restaurants, retail dealers, dispensers, clubs, cabarets, hotels, caterers, brewpubs, [and] condominium hotels, and small craft producer pubs licensed under class 2, class 4, class 5, class 6, class 11, class 12, class 13, class 14, [and] class 15, and class 18 shall maintain at all times liquor liability insurance coverage in an amount not less than \$1,000,000; provided that convenience minimarts holding a class 4 license shall not be required to maintain liquor liability insurance coverage in that amount. Proof of coverage shall be kept on the premises and shall be made available for inspection by the commission at any time during the licensee's regular business hours. In the event of a licensee's failure to obtain or maintain the required coverage, the commission shall refuse to issue or renew a license, or shall suspend or terminate the license as appropriate. No license shall be granted, reinstated, or renewed until after the required insurance coverage is obtained.

[(r)](s) It shall be unlawful for any licensee to utilize any liquor, acquired or purchased from a class 1, manufacturers' licensee, or a class 3, wholesale dealers'

licensee, or a person authorized by the commission as a solicitor or representative of a manufacturer or for personal or private use or consumption, except as authorized by the commission. All liquor shall be sold as authorized by the license issued." [Eff 7/1/00; am and comp 7/15/02; am and comp 4/22/12; am and comp 6/18/15] (Auth: HRS §§91-2, 281-17) (Imp: HRS §281-17)

4. Section 08-101-25, Rules Governing the Manufacture and Sale of Intoxicating Liquor of the County of Maui, is amended by amending subsection (a) to read as follows:

"(a) Hours during which licensed premises may be open for the transaction of business shall be as follows:

- (1) Dispensers, restaurants, clubs, [vessels,] transient vessels, tour or cruise vessels, and specials: any hour of the day from 8:00 a.m. to 2:00 a.m., the following day.
- (2) Cabarets: any hour of the day from 8:00 a.m. to 4:00 a.m., the following day.
- (3) Hotels: any hour of the day from 6:00 a.m. to 4:00 a.m., the following day.
- (4) Retailers: any hour of the day from 6:00 a.m. to 11:00 p.m.
- (5) Manufacturers and wholesalers: any hour of the day from 6:00 a.m. to 9:00 p.m.
- (6) Brewpub: any hour of the day from 8:00 a.m. to 2:00 a.m., the following day.
- (7) Small craft producer pub: any hour of the day from 8:00 a.m. to 2:00 a.m., the following day for on-premise consumption liquor sales and 6:00 a.m. to 11:00 p.m. for off-premise retail liquor sales." [Eff 7/1/00] (Auth: HRS §§ 91-2, 281-17; am and comp 6/18/15) (Imp: HRS §281-17)

5. Section 08-101-31, Rules Governing the Manufacture and Sale of Intoxicating Liquor of the County of Maui, is amended to read as follows:

"§08-101-31 No license issued, when. No license shall be issued:

- (1) To any minor or to any person who has been convicted of a felony and not pardoned, or to

any other person not deemed by the commission to be a fit and proper person to have a license; provided that the commission may grant a license under the rules of the commission to a partnership, trust, association, limited liability partnership, limited liability company, corporation, or any other person, that has been convicted of a felony where the commission finds that the partner, member, manager, organizer, or any person of a limited liability partnership, limited liability company or organization's officers, directors, and any person owning or controlling twenty-five percent or more of the outstanding stock are fit and proper persons to have a license;

- (2) To any partner in a partnership, or a corporation, trust or association, the officers, directors, or any other person of which, or any of them, would be disqualified under subsection (1) from obtaining the license individually, or any person of which, owning or controlling twenty-five percent or more of the outstanding capital stock, or any other person, would be disqualified under such subsection (1) from obtaining the license individually;
- (3) To any applicant for a license, or a renewal of a license, or in the case of a transfer of a license, where both the transferor and the transferee, failed to present to the issuing agency a signed certificate from the director of taxation, and from the Internal Revenue Service showing that the applicant or the transferor and transferee do not owe the State or federal governments any delinquent taxes, penalties, or interest; or that the applicant, or in the case of a transfer of a license, the transferor or transferee, has entered into an installment plan agreement with the department of taxation and the Internal Revenue Service for the payment of delinquent taxes in installments and that the applicant is or the transferor or transferee is, in the case of a

- transfer of a license, complying with the installment plan agreement;
- (4) To any applicant who has a partner in the partnership, limited liability partnership, member, manager, agent, organizer, or any person owning or controlling twenty-five percent or more of a limited liability company, or any officer, director or any person owning or controlling twenty-five percent or more of the outstanding stock of any corporation, trust, or association, or any other person, who has had any liquor license revoked less than two years previous to the date of the application for any like or other license under the rules of the commission;
 - (5) To any person owning or controlling twenty-five percent or more of the outstanding stock of the corporation, trust, or association of a licensee, who is currently delinquent in filing the gross liquor sales report of any license that was issued, or currently owing any fees or monies due to the department, or both. "Any fees or monies" shall include but not be limited to license fees, publication fees, and any assessment of a penalty imposed by the department, commission, or board. Any licensee, who has any person, or person owning or controlling twenty-five percent or more of the outstanding stock of a corporation, trust, or association of a licensee, who is delinquent in filing the gross liquor sales report of any other license that was issued, or currently owing any fees or monies to the department, shall not exercise its license until the gross sales report is filed and percentage fee paid;
 - (6) To a limited liability company, the members, managers, organizers, or any person, of which or any of them, would be disqualified under subsection (1) from obtaining the license individually, would be disqualified under that paragraph from obtaining the license individually;
 - (7) To a limited liability company, partnership, limited liability partnership, or corporation,

that may consist of a limited liability company, partnership, limited liability partnership, corporation, or any other person or any combination thereof, the members, managers, organizers, partners, officers, directors, or any person thereof, of which any of them would be disqualified under subsection (1) from obtaining the license individually, or a person owning or controlling twenty-five percent or more of the outstanding stock of such corporation would be disqualified under that paragraph from obtaining the license individually; or

- (8) To an applicant for a class 2, class 4 except for convenience minimarts, class 5, class 6, class 11, class 12, class 13, class 14, [or] class 15, or class 18 license, unless the applicant for issuance of a license or renewal of a license, both the transferor and the transferee, present to the issuing agency proof of liquor liability insurance coverage in an amount of \$1,000,000." [Eff 7/1/00; am and comp 7/15/02; am and comp 4/22/12; am and comp 6/18/15] (Auth: HRS §§91-2, 281-17) (Imp: HRS §281-17)

6. Section 08-101-33, Rules Governing the Manufacture and Sale of Intoxicating Liquor of the County of Maui, is amended by amending subsection (d) to read as follows:

"(d) The commission shall deny renewal of a class 2, class 4, class 5, class 6, class 11, class 12, class 13, class 14, [or] class 15, or class 18 license if the applicant for renewal fails to present proof of the liquor liability insurance required by section [281-31(r),] 281-31(s), HRS." [Eff 7/1/00; am and comp 7/15/02; am and comp 4/22/12; am and comp 6/18/15] (Auth: HRS §§ 91-2, 281-17) (Imp: HRS §281-17)

7. Section 08-101-45, Rules Governing the Manufacture and Sale of Intoxicating Liquor of the County of Maui, is amended by amending subsection (a) to read as follows:

"(a) A manufacturer of wine who desires to ship wine to persons twenty-one years of age or older in the county shall obtain a direct shipment of wine permit. The term of the permit shall be for one calendar year. The applicant shall submit:

- (1) Application form prescribed by the commission;
- (2) Copy of the state department of taxation general excise tax license;
- (3) Copy of the class 1, [or] class 16, or class 18 license to manufacture wine, or the license to manufacture wine issued by another state;
- (4) Copy of the basic permit issued by U.S. Alcohol and Tobacco Tax and Trade Bureau;
- (5) Letter of authorization (if using a compliance agent/agency); and
- (6) Payment of applicable fees." [Eff 7/15/02; am and comp 4/22/12; am and comp 6/18/15] (Auth: HRS §§91-2, 281-17, 281-33.6) (Imp: HRS §281-17)

8. Section 08-101-50, Rules Governing the Manufacture and Sale of Intoxicating Liquor of the County of Maui, is amended by amending subsection (b) to read as follows:

"(b) Basic fee. This fee shall be paid in advance not later than each June 15th, prior to the fiscal year for which the license is issued. The fee paid for a license issued on any other date shall be reckoned proportionally from the first day of the month in which the business is commenced to the expiration date or to the next payment due date.

<u>Class</u>	<u>Kind</u>	<u>Basic Fee</u>
(1) Manufacturers (including rectifiers)	(A) Beer	\$ 600
	(B) Wine	600
	(C) Wine manufactured from fruits grown in the State	300
	(D) Alcohol	200
	(E) Other liquors	640
(2) Restaurant	(A) General	600
	(B) Beer and Wine	300
	(C) Beer	150

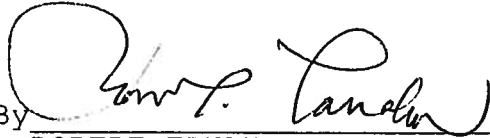
(3)	Wholesale	(A)	General	2,400
		(B)	Beer and Wine	1,800
		(C)	Alcohol	200
(4)	Retail	(A)	General	560
		(B)	Beer and Wine	260
		(C)	Alcohol	200
(5)	Dispenser	(A)	General	600
		(B)	Beer and Wine	300
		(C)	Beer	150
(6)	Club			320
[(7)]	Vessel			300
(8)]	<u>(7)</u> Transient Vessel, per day			25
	Monthly			100
	Yearly			1,200
[(9)]	<u>(8)</u> Tour or Cruise Vessel			300
[(10)]	<u>(9)</u> Special, per day	(A)	General	25
		(B)	Beer and Wine	15
		(C)	Beer	10
[(11)]	<u>(10)</u> Cabaret			1,200
[(12)]	<u>(11)</u> Hotel			1,200
[(13)]	<u>(12)</u> Caterer[, per day			25] 600
[(14)]	<u>(13)</u> Brewpub			1,000
(14)	<u>Condominium Hotel</u>			1,200
(15)	<u>Winery</u>			1,000
(16)	<u>Small craft producer pub</u>			1,000"
[Eff 7/1/00; am and comp 7/15/02; am and comp 6/18/15]				
(Auth: HRS §§91-2, 281-17) (Imp: HRS §281-17)				

9. Material, except source notes, to be repealed is bracketed. New material is underscored.


10. Additions to update source notes to reflect these amendments are not underscored.

11. These amendments to Chapter 101, Rules Governing the Manufacture and Sale of Intoxicating Liquor of the County of Maui, shall take effect ten days after filing with the Office of the County Clerk.

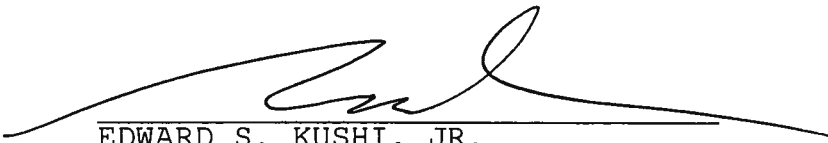
Adopted this 13th day of May,
2015, at Wailuku, Maui, Hawaii.

By 
ROBERT TANAKA
Chairperson
LIQUOR COMMISSION

Approved this 2 day of
June, 2015.


ALAN M. ARAKAWA
Mayor, County of Maui

APPROVED AS TO FORM
AND LEGALITY:


EDWARD S. KUSHI, JR.
First Deputy Corporation Counsel
County of Maui

Received this 9th day of

June, 2015.


Clerk, County of Maui

CERTIFICATION

I, ROBERT TANAKA, Chair, Department of Liquor Control, County of Maui, do hereby certify:

1. That the foregoing is a copy of the Rules Governing the Manufacture and Sale of Intoxicating Liquor of the County of Maui, drafted in Ramseyer format, pursuant to the requirements of Section 91-4.1, Hawaii Revised Statutes, which were adopted on the 13th day of May, 2015, by affirmative vote of the proper majority following a public hearing on May 13, 2015; and filed with the Office of the County Clerk.

2. That the notice of public hearing on the foregoing amendment to the rules was published in The Maui News on the 13th day of April, 2015.

COUNTY OF MAUI

A handwritten signature in black ink, appearing to read "Robert Tanaka", is written over a horizontal line.

ROBERT TANAKA
Chairperson
LIQUOR COMMISSION

2015-3691